

**THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member
&
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 1819/KOL/2024
Assessment Year: 2017-2018**

***Rahemul Khandaker,.....Appellant
Singejani, Bhetaguri,
P.O. Bhetaguri,
Dist. Coochbehar-736134
[PAN:CKAPK7117G]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(1), Coochbehar,
Aayakar Bhawan, Debi Bari (North),
Coochbehar-736101***

Appearances by:

*Shri Sujit Basu, A.R. and Shri Rajib Mukharjee, A.R.,
appeared on behalf of the assessee*

*Shri Akhil Kumar, Sr. D.R., appeared on behalf of the
Revenue*

**Date of concluding the hearing: November 11, 2024
Date of pronouncing the order: November 25, 2024**

O R D E R

Per Sonjoy Sarma, Judicial Member:-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 11th June, 2024 passed for Assessment Year 2017-18.

2. At the outset, there is a delay of 17 days in filing the appeal filed by the assessee, which was stated to be on account of non-availability of his Id. Counsel for signing the appeal memorandum as well as payment of appeal filing fees and also due to some personal family problems i.e. sudden serious illness of his daughter and wife. Thereafter the Advocate was approached to file the appeal and it was finally filed on 27th August, 2024.

3. On the other hand, Id. D.R. objected to this contention of the Id. Counsel for the assessee and contended that the delay should not be condoned.

4. After hearing the rival contentions and perusing the material placed on record, we find that the delay in filing the appeal was happened due to bonafide reason and accordingly the same is condoned.

5. Brief facts of the case are that according to the System Generated Report by the Department, it was found that the assessee had deposited cash totaling to Rs.22,11,000/- in the Bank account held with United Bank of India, Bhetaguri Branch, Coochbehar. Notice under section 142(1) of the Act was issued to the assessee requiring to file true and correct return of income for the assessment year 2017-18. However, the assessee failed to submit his return of income as required by the notice under

section 142(1) of the Act, which led to initiation of proceeding under section 144 of the Income Tax Act. Even in absence of compliance from the assessee, the ld. Assessing Officer proceeded to gather additional evidence from United Bank of India to complete the assessment. During the assessment proceeding under section 144, a requisition was made under section 133(6) of the Act to the Branch Manager, United Bank of India to furnish accounts statement and all other accounts maintained by the assessee from April, 2016 to March, 2017. The bank provided the requisite statements revealing that the assessee had made transactions in a separate account amounting to the total deposit of Rs.3,17,77,695/- within the specified time. The ld. Assessing Officer was given an opportunity to provide explanation regarding these deposits and to explain why the assessment should not be completed under section 144 of the Act. However, the assessee did not appear before the ld. Assessing Officer nor provide any satisfactory evidence to justify the transactions. Consequently ld. Assessing Officer concluded that the assessee's deposits constituted unexplained investment and made an addition of Rs.3,17,77,695/- as income under section 69 of the Act and consequently added further sum of Rs.22,11,000/- deposited in the Bank during the demonetization period by the assessee.

6. Dissatisfied with the assessment order, the assessee filed an appeal before the ld. CIT(Appeals). However, the assessee again failed to produce any evidence substantiating the claim of legitimate business activities or providing the source for the

deposits. As a result, the ld. CIT(Appeals) dismissed the appeal of the assessee.

7. Aggrieved with the order of ld. CIT(Appeals), subsequently the assessee filed an appeal before this Tribunal raising multiple grounds. The preliminary contention raised by the assessee is that the assessment should be reexamined to the alleged lack of opportunity to substantiate his claim.

8. The ld. D.R., on the other hand, opposed the contention of the ld. Counsel for the assessee and argued that ample opportunities had been provided to the assessee by both the ld. Assessing Officer and ld. CIT(Appeals). However, the assessee failed to utilize the same.

9. We have heard the rival submissions and perused the relevant materials placed on record. We find that the assessee was granted several opportunities to represent his case. In response to the notice issued by the ld. Assessing Officer, the assessee submitted documentary evidences to substantiate the nature and source of deposit in question. Despite these opportunities, the assessee failed to appear or present necessary evidences that could lead to failure of his claim even at the appellate stage before the ld. CIT(Appeals). The assessee did not provide any supporting documentation or did he offer credible explanation to justify the source of funds in his various accounts. The ld. CIT(Appeals) was left no option to consider the assessee's appeal in favour resulting in dismissal of the appeal. In the light of assessee's contention,

non-compliance and lack of supporting evidence, we find it necessary to ensure the complete admission of facts. Therefore, in the interest of justice, it is deemed appropriate to remand the case to the file of Id. Assessing Officer with a specific direction to allow the assessee another opportunity to present his case. The assessee is also directed to produce evidences in support of the source and nature of deposits relating to transactions totaling to Rs.3,17,77,695/- and cash deposit of Rs.22,11,000/- during demonetization period. The assessee is also directed to cooperate with the Id. Assessing Officer's proceeding and respond to any notice promptly. If assessee's failure to comply with Id. Assessing Officer's direction or non-appearance without any valid reason, which may lead to an adverse interference and then the Id. Assessing Officer shall be free to conclude the assessment in accordance with law. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 25/11/2024.

Sd/-

(Sanjay Awasthi)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Kolkata, the 25th day of November, 2024

*Copies to :(1) Rahemul Khandaker,
Singejani, Bhetaguri,
P.O. Bhetaguri, Dist. Coochbehar-736134*

- (2) *Income Tax Officer,
Ward-2(1), Coochbehar,
Aayakar Bhawan, Debi Bari (North),
Coochbehar-736101*
- (3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Delhi;*
- (4) *CIT - , Kolkata;*
- (5) *The Departmental Representative;*
- (6) *Guard File*
- TRUE COPY*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.